

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WILLET DAVIDSON,

Plaintiff,

-against-

NEW YORK DEPARTMENT OF
CORRECTIONS et al.,

Defendants.

20 Civ. 9500 (LGS)

ORDER

LORNA G. SCHOFIELD, United States District Judge:

WHEREAS, pro se Plaintiff filed a Second Amended Complaint (“SAC”) alleging violations of 19 U.S.C. § 1983 arising from the conditions of his confinement at the Vernon C. Bain Center (“VCBC”) (Dkt. No. 12). The SAC requested: (1) that Plaintiff be released from custody due to the risks of COVID-19; (2) that the VCBC be limited to 50% of its capacity and social distancing enforced generally and in Plaintiff’s dormitory and (3) damages.

WHEREAS, Plaintiff subsequently filed a letter motion requesting the Court immediately grant the relief requested in his SAC, which the Court construed as a motion for preliminary injunctive relief (Dkt. No. 13).

WHEREAS, a preliminary injunction is only available for irreparable harms -- actual and imminent injuries that cannot be remedied through money damages. *See Faiveley Transp. Malmo AB v. Wabtec Corp.*, 559 F.3d 110, 116 (2d Cir. 2009); *accord In re Citibank Aug. 11, 2020 Wire Transfers*, No. 20 Civ. 6539, 2021 WL 1905002, at *4 (S.D.N.Y. May 12, 2021). Plaintiff’s request for an injunction granting monetary damages as a remedy thus cannot be granted.

WHEREAS, the New York State Department of Correction’s public records show that on May 26, 2021, Plaintiff was transferred from the Vernon C. Bain Center to the Downstate

Correctional Facility, which Defendants represent is not under their control (Dkt. No. 32). Due to this transfer, Plaintiff cannot show an imminent injury due to conditions at the VCBC that justifies immediate injunctive relief. Accordingly, it is hereby

ORDERED that Plaintiff's requests for injunctive relief at Dkt. No. 13 are **denied**.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is respectfully directed to mail a copy of this order to pro se Plaintiff at:

Willet Davidson
DIN 21A0603
Downstate Correctional Facility
121 Red Schoolhouse Road
Box F
Fishkill, NY 12524

Dated: June 7, 2021
New York, New York

A handwritten signature in black ink, appearing to read 'Lorna G. Schofield', is written over a horizontal line.

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE